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Attorneys for Defendants SWIFT TRANSPORTATION CO.  
OF ARIZONA, LLC, and SWIFT TRANSPORTATION COMPANY

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JAMES R. RUDSELL,  
Plaintiffs,

v.

SWIFT TRANSPORTATION  
COMPANY OF ARIZONA, LLC, et al.

Defendants.

and

JOHN BURNELL, et al.

Plaintiffs,

v.

SWIFT TRANSPORTATION  
COMPANY OF ARIZONA, LLC

Defendant

Case No. 5:12-cv-00692 VAP OP; and  
Case No. 5:10-cv-00809-VAP-OP

Hon. Virginia A. Phillips

**DECLARATION OF ROBERT  
MUSSIG IN SUPPORT OF  
DEFENDANTS' REPLY TO  
LAWRENCE PECK'S  
OBJECTIONS TO PLAINTIFFS'  
MOTION FOR PRELIMINARY  
APPROVAL OF THE PARTIES'  
CLASS ACTION SETTLEMENT**

Date of Hearing: July 8, 2009  
Time: 2:00 p.m.  
Room: 8A – First Street

1           1.     I am an attorney licensed to practice law in the State of California. I  
2 am a partner at Sheppard, Mullin, Richter & Hampton LLP, counsel of record for  
3 Defendants Swift Transportation Co. of Arizona LLC and Swift Transportation  
4 Company in this consolidated action and in the actions filed by Mr. Peck against  
5 Defendants. I make this declaration based on my own personal knowledge. If  
6 called upon to testify to the facts set forth below, I could and would competently do  
7 so.

8           2.     Mr. Peck is currently prosecuting two separate actions against  
9 Defendants: a state court action asserting a single cause of action under the Private  
10 Attorneys General Act (PAGA) and a proposed class action lawsuit currently  
11 pending in this Court. Mr. Peck has argued time and again in his state court PAGA  
12 case that he does not have sufficient discovery to try his case or properly value his  
13 claims. He has argued that he requires time, pay and other data applicable to all  
14 drivers in order to effectively try the case. Defendants have not produced this data  
15 and have vigorously opposed Peck's efforts to obtain the data as it would cost  
16 Defendants millions of dollars to do so. Based on my communications with Mr.  
17 Peck's attorneys, I understand the primary reason Mr. Peck and his lawyers agreed  
18 to a trial continuance in the state court PAGA case is that they do not believe they  
19 have sufficient discovery to go to trial.

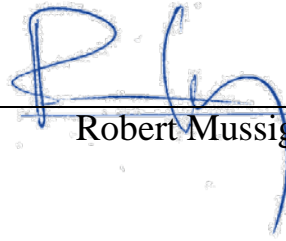
20           3.     The stipulated settlement agreement in this matter was executed in May  
21 2019. Prior to that date, the parties engaged in extensive negotiations, including  
22 attendance at a mediation in April 2018, to come to mutually acceptable, reasonable  
23 and fair settlement terms. During this time period, Defendants were also exploring  
24 settlement with Objector Lawrence Peck and his counsel. In part because  
25 discussions with the *Rudsell/Burnell* lawyers were dragging on, Defendants were  
26 absolutely willing to explore a settlement with Peck and his lawyers under the right  
27 conditions, including settlement on an individual basis. However, while at various  
28 times Mr. Peck and his lawyers have generally indicated a range where their

1 opening settlement demand might fall, neither he nor his lawyers have ever made a  
2 concrete settlement demand to Defendants supported by any sort of analysis or  
3 evidence.

4 4. As required by the Class Action Fairness Act (CAFA), Defendants  
5 delivered notices of the parties' settlement to the United States Attorney General  
6 and each state attorney general in which a class member resides within 10 days of  
7 Plaintiffs filing the motion for preliminary approval. As part of that notice,  
8 Defendants included the names and states of residence for each potential class  
9 member, and an analysis of the class by state of residence. Attached hereto as  
10 **Exhibit 1** is the analysis of the class by state of residence included in the CAFA  
11 notice, which provides that the class consists of 19,626 members.

12 I declare under penalty of perjury under the laws of the State of  
13 California that the foregoing is true and correct.

14 Executed on June 24, 2019, at Los Angeles, California.

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17 Robert Mussig  
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